



STATE OF OREGON
Legislative Counsel Committee

January 9, 2020

To: Senator Jeff Golden

From: Christopher P. Allnatt, Staff Attorney

Subject: Campaign contribution limits under the Oregon Constitution

Enclosed is LC 164, which establishes campaign contribution limits. The draft sets limits on the amount of moneys and restricts the sources of moneys that a candidate or principal campaign committee may accept, as well as the amount of moneys and sources that a political committee that is allowed to contribute to a candidate or principal campaign committee may accept.

Please note that we believe under current Oregon law the draft is almost certainly unconstitutional under the state Constitution. In *VanNatta v. Keisling*, 324 Or. 514, 524 (1997), the Oregon Supreme Court struck down statutory limits on political contributions, finding “that both campaign contributions and expenditures are forms of expression for the purposes of Article I, section 8” of the Oregon Constitution. We believe that a court is therefore likely to conclude that LC 164 similarly violates Article I, section 8, of the Oregon Constitution.

However, it is also important to note that one of two events may significantly alter our analysis. First, there is a case pending in front of the Oregon Supreme Court. The court’s decision may possibly change our analysis of the constitutionality of campaign contribution limits under the Oregon Constitution. On November 1, 2019, the court heard oral arguments regarding the constitutionality of Multnomah County Home Rule Charter section 11.60 and Implementing Ordinance No. 1243 Regulating Campaign Finance and Disclosure (Multnomah County charter and ordinance).¹ This measure contains significant campaign finance reforms, including contribution limits.

While we cannot speculate on how the court will decide, the court may reach a ruling this spring on whether to uphold or reverse in whole or in part its earlier ruling in *VanNatta*. If the court decides to reverse its earlier ruling, the court may find that the government may place limits on campaign contributions. At that point, a court would find that LC 164 does not violate the Oregon Constitution.

The second event is the proposed amendment to Article II, section 8, of the Oregon Constitution, referred to the people for the next regular general election in November 2020. If the people vote to adopt Senate Joint Resolution 18 (2019), the Oregon Constitution would be amended to specifically allow for campaign contribution limits. This would mean that LC 164 would be permitted under the Oregon Constitution.

Encl.

¹ See Campaign Finance Charter Amendment FAQ, Multnomah County, <https://multco.us/multnomah-county/campaign-finance-charter-amendment-faq> (last visited January 8, 2020).